

MINUTES OF MEETING NOVEMBER 13, 2004

The meeting was held on Saturday, November 13, 2004 in Room 4401 in the Grant Sawyer Office Building at 555 E. Washington Ave., Las Vegas, Nevada.

The following were present at the roll call:

Margaret Colucci, DC, Vice President
Bobby Lazenby, Consumer Member
Donald H. Miner, DC, Secretary
Curtis Potts, DC, Member
Ian Yamane, DC, Member
Stephanie Youngblood, DC, President

Also present were Deputy Attorneys General Christine Guerci and Dianna Hegedius, Drs. Jason Ramos, Jeffrey Fine and Mark Handelman, CPBN Assistant Executive Director Conrad Frederickson and Executive Director Cindy Wade. Court Reporter Jenness Powers was present to record the hearing under Agenda Item 4 and the matters addressed under Agenda Items 5 and 6.

AGENDA ITEM 1 President Dr. Stephanie Youngblood determined that a quorum was present and called the meeting to order at 9:27 AM.

AGENDA ITEM 2 Bobby Lazenby led recital of the Pledge of Allegiance.

AGENDA ITEM 3 Dr. Miner moved for approval of the agenda. Dr. Colucci seconded and the motion passed unanimously.

AGENDA ITEM 4 At Dr. Youngblood's request, Ms. Guerci proceeded with prosecution of the matter of Francis L. Raines, DC. Ms. Guerci noted that Dr. Raines was not present. She called CPBN Executive Director Cindy Wade as a witness. Ms. Wade testified as to the chronology of Dr. Raines' arrest and conviction for armed bank robbery and the authenticity of State's Exhibits 1 through 6 which were admitted as evidence. Ms. Guerci presented a closing statement and recommended the Board find Dr. Raines in violation of Counts 1 and 2 in the Complaint. Dr. Miner moved that Dr. Raines be found guilty of Counts 1 and 2 in the Complaint for violations of NRS 634.018(6), unprofessional conduct for conviction of a felony and NRS 634.018(10), unprofessional conduct for conduct unbecoming a person licensed to practice chiropractic or detrimental to the best interests of the public. Mr. Lazenby seconded and the motion passed unanimously.

Dr. Miner moved that Dr. Raines' license be revoked, that he be required to reimburse the Board for its costs in prosecuting this matter, and that he be fined the maximum amount (\$10,000) for each count for which he was found guilty. Dr. Yamane seconded the motion and it passed unanimously.

AGENDA ITEM 5 The meeting went into closed session as requested by Dr. Jason Ramos while the Board reviewed his request for rescission of the conditions of his December 14, 2003 Stipulated Conditions for Licensure and Order. When the meeting reopened Dr. Yamane moved to deny Dr. Ramos' request. Mr. Lazenby seconded and the motion passed unanimously.

AGENDA ITEM 6 Drs. Fine and Handelman presented their positions pursuant to their request that publication of their March 9, 2003 Agreed Settlements of Disciplinary Action and Orders be removed from the Board's website. Upon inquiry from Dr. Miner, Ms. Guerci advised that this is public information and the Board has the discretion to publish it on its website. Mr. Lazenby disclosed that he has had a friendship with Dr. Fine for approximately 25 years, but this will not affect his decision in this matter. Following further discussion, Dr. Colucci moved to continue this matter until the next meeting. Dr. Yamane seconded the motion and it passed unanimously.

AGENDA ITEM 7 Lobbyist Paula Berkley was present to present her proposal to serve as the Board's lobbyist and to respond to any questions from the Board. A call was placed to the other candidate, Susan Fisher, and this matter was postponed to give her time to respond.

AGENDA ITEM 8A Mr. Lazenby reported that he has reviewed Complaint 04-5 with Senior DAG Bob Auer. The DC in this matter is currently on probation for a felony drug abuse conviction and is undergoing periodic drug testing. Mr. Auer recommended that rather than prosecute this doctor he should be put on notice by letter that he must notify the Board of any violations of the requirements of his probation. Dr. Miner moved that this matter be referred to the Board's attorney for prosecution for violation of NRS 634.018, subsection 8, unprofessional conduct for conviction or violation of any federal or state law regulating the possession, distribution or use of any controlled substance. Dr. Colucci seconded the motion. The motion passed with all in favor except Mr. Lazenby who was opposed.

AGENDA ITEM 8B Regarding Complaint 04-12, Mr. Lazenby advised that he has discussed with both sides the questionable manner in which a patient was referred to a DC as he left the hospital after being treated for an injury. Mr. Lazenby stated that Senior DAG Bob Auer recommended to him that no more time should be wasted on this matter because the attorney who filed the complaint on his client's behalf cannot provide names or any proof to back up his allegation. It was duly noted that this is a southern Nevada complaint and Ms. Guerci should have been consulted rather than Mr. Auer. Mr. Lazenby moved to dismiss the complaint. The motion was seconded by Dr. Miner and passed unanimously.

AGENDA ITEM 8C Complaint 04-24 was filed by a patient who is unhappy with a DC's services and she had to put up a \$100 deposit for her x-rays. It was determined that there is no apparent violation and Dr. Yamane moved to dismiss the complaint. Dr. Potts seconded the motion which passed with all in favor except Mr. Lazenby who was opposed.

AGENDA ITEM 8D Dr. Youngblood explained that Complaint 04-26 involves possible fraudulent performance of services and billing by a group of chiropractors. This case is currently under investigation.

AGENDA ITEM 7 (cont'd) Lobbyist Susan Fisher did not respond to the Board's call. Dr. Colucci moved for approval of Paula Berkley's proposal. The motion was seconded by Dr. Miner who cited Ms. Berkley's many years of prior experience as the CPBN lobbyist. Mr. Lazenby objected because he was under the impression that Ms. Berkley referred to the Board as dysfunctional in her letter cancelling her contract in 2000 and that she has no other clients. The motion did not carry with Drs. Colucci, Miner and Youngblood in favor and Drs. Potts and Yamane and Mr. Lazenby opposed. Dr. Youngblood expressed concern that the Board will be very late in submitting its bill draft. This matter was continued until after a break for lunch.

AGENDA ITEM 9 Dr. Miner moved to grant licenses to the following DCs who passed the November 11, 2004 law examination:

Aram Bedekian, DC	Ciro Ghiraldi, DC	Arthur G. Rossi, Jr., DC
Joshua A. Carr, DC	Danny Kalkantzakos, DC	Mark R. Steed, DC
Lawrence Cho, DC	Brian J. Owen, DC	Marin K. Wendell, DC
Christine A. Epper, DC	Melissa Perotti, DC	Todd S Wendell, DC
Emmett R. Findlay, DC		

The motion was seconded by Dr. Yamane and passed unanimously.

AGENDA ITEM 10 Dr. Miner moved to approve the minutes of the August 28, 2004 meeting. Mr. Lazenby seconded the motion and it passed unanimously.

ITEMS 11A AND 11B Following discussion, Dr. Miner moved to continue the matter of public posting of disciplinary and probationary license actions until the matter can be researched. Dr. Yamane seconded and the motion passed unanimously.

ITEM 12A Dr. Youngblood moved to approve establishment of the Assistant Executive Director position. Dr. Colucci seconded the motion and it passed unanimously.

AGENDA ITEM 13A Dr. Yamane moved to accept the drafted Executive Director job description as a working document. Dr. Miner seconded and the motion passed unanimously.

AGENDA ITEM 13B Dr. Miner moved to establish a salary range for the Executive Director position at \$45,000 - \$60,000. Dr. Yamane seconded and the motion passed unanimously.

AGENDA ITEM 13C Mr. Lazenby moved that an adjustment to the Executive Director's current salary is in order. Dr. Colucci seconded and suggested that cost of living increases for 2003 and 2004 should be retroactive. Mr. Lazenby restated his motion to apply a cost of living increase combined with a merit increase not to exceed 5%. Following discussion, the motion was withdrawn. Dr. Miner moved that the Executive Director receive a cost of living increase of 2-1/2% plus a 2-1/2% merit increase retroactively in a lump sum. Dr. Youngblood seconded and the motion passed unanimously.

Dr. Miner moved that the Executive Director receive a cost of living increase of 2-1/2% and a not-to-exceed 2-1/2% merit increase based on a review of her performance at the end of the current year. Mr. Lazenby seconded the motion and it passed unanimously.

AGENDA ITEM 13D Dr. Miner moved that the CPBN adopt the state benefits package for its employees. Dr. Yamane seconded the motion and it passed unanimously.

AGENDA ITEM 14A, 14B and 14C Dr. Colucci moved to approve the proposed procedure for administration of annual reviews as amended. Dr. Potts seconded and the motion passed unanimously.

AGENDA ITEM 14D Mr. Lazenby moved to increase the Assistant Executive Director's salary of \$42,500 by 10.5% to compensate for the benefit he received while an employee of the Nevada Board of Veterinary Medicine who paid his employee share of his retirement contribution as well as the employer share. Dr. Colucci seconded the motion which passed with Drs. Colucci, Potts and Yamane and Mr. Lazenby in favor and Drs. Miner and Youngblood opposed. Executive Director Cindy Wade's request for the same benefit for herself and the other Board's employee was not considered.

Mr. Lazenby expressed his concern that the Board is spending too much on salaries and also legal fees because we are referring so many complaints to the AG's office for prosecution.

AGENDA ITEM 12B Mr. Lazenby moved to approve a salary range of \$35,000 to \$50,000 for the Assistant Executive Director position. Dr. Yamane seconded and the motion passed unanimously.

AGENDA ITEM 12C Mr. Lazenby moved to approve the Assistant Executive Director's entry salary of \$42,500. Dr. Yamane seconded the motion and it passed unanimously.

AGENDA ITEM 12D Dr. Miner moved to adopt the state benefits package for CPBN employees. Dr. Youngblood seconded and the motion passed unanimously.

AGENDA ITEM 15F Mr. Lazenby moved to approve the proposed amended budget. Dr. Yamane seconded the motion and it passed unanimously.

AGENDA ITEM 16 Dr. Miner moved to approve a lump sum payment to the Executive Director for her vacation time accrued through January 1, 2004 and comp time accrued through October 31, 2004. Dr. Youngblood seconded and the motion passed with all in favor except Mr. Lazenby who was opposed.

AGENDA ITEM 7 (CONT'D) Dr. Youngblood requested that selection of a lobbyist be addressed one more time. She stated that the Board needs to increase its fee caps which must be done statutorily and our bill draft would be at risk without a lobbyist. Dr. Miner moved to approve Paula Berkley's proposal. Dr. Youngblood seconded the motion. The motion did not pass with Drs. Colucci, Miner and Youngblood in favor and Drs. Potts and Yamane and Mr. Lazenby opposed.

The meeting adjourned at 5:28 PM.